

STATE OF INDIANA

RETIREMENT MEDICAL BENEFITS ACCOUNT PLAN

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ARTICLE I

Introduction

Section 1.1 Purpose of Plan. Section 5-10-8.5-11 of the Indiana Code (“IC”) directs the Indiana State Budget Agency (the “Agency”) of the State of Indiana (the “State”) to establish a retirement medical benefits account as a health reimbursement arrangement for the purpose of funding, on a pre-tax basis, benefits for sickness, accident, hospitalization and medical expenses for certain retired employees of the “Employers” as defined in Section 2.2. The purpose of the Retirement Medical Benefits Plan (the “Plan”) is to reimburse eligible retired employees of the Employers for certain qualifying medical expenses they, their spouses and their dependent children incur. The Plan is intended to comply with the requirements of Section 105 of the Internal Revenue Code, as amended (the “Code”), and with the provisions of IC 5-10-8.5-1 *et seq.*

Section 1.2 Effective Date. The “Effective Date” of the Plan is August 1, 2007. The provisions of the Plan only apply to an “Eligible Employee” as defined in Section 2.1, who is in the employ of an Employer described in Section 2.2 on or after July 1, 2007, subject to the limitations set forth in Article II.

Section 1.3 Plan Administration; Plan Year. The Plan is administered on the basis of a “Plan Year,” which is the twelve-month period commencing on each July 1 and ending on the next following June 30, with the first year being a “short” year beginning on the Effective Date and ending on June 30, 2008. The Plan will be under the direction and control of the Agency. The Agency from time to time may adopt any rules or procedures it deems necessary or desirable for the proper and efficient administration of the Plan. The Agency will handle the day-to-day administration of the Plan and may appoint a third party administrator to process benefit claims

and to assist in the overall administration of the Plan (the “Claims Administrator”). The Agency may seek the assistance of the State Personnel Department (the “Department”) and the Public Employees Retirement Fund (“PERF”) in the overall administration of the plan. Any notice or document required to be given to or filed with the Agency will be properly given or filed if delivered or mailed, by registered mail, postage prepaid, to:

Indiana State Budget Agency
212 State House
Indianapolis, Indiana 46204
Attention: Assistant Director, General Government

Section 1.4 Funding of Benefits. Except as provided in Section 3.3 and 3.4, the Treasurer of the State is not required to segregate any funds or establish any funding procedure for any amount to be used to reimburse a Participant under the Plan. Payments under the Plan will be paid from a “Fund” established to hold the contributions and earnings on the Fund.

Section 1.5 Examination of Documents. Copies of the Plan document, including any amendments, will be made available on the Agency’s internet site, www.in.gov/sba, and its principal office, where they may be examined by any Participant or any person entitled to benefits under the Plan.

Section 1.6 Plan Supplements. The provisions of the Plan may be modified by supplements to the Plan. The terms and provisions of each supplement are a part of the Plan and supersede any other provisions of the Plan to the extent necessary to eliminate any inconsistencies between the supplement and any other Plan provisions.

ARTICLE II

Participation

Section 2.1 Eligible Employees. The following individuals are eligible to participate in the Plan (“Eligible Employees”) if they are classified as full-time employees as defined by the Department and are:

- (a) Employees of the executive, legislative, or judicial branch of State government;
- (b) State elected officers;
- (c) Appointed officers who are appointed to fill State elected office vacancies;
- (d) Members of the Indiana General Assembly;
- (e) Elected officers paid by the State;
- (f) An officer paid by the State under IC 33-23-5-10, IC 33-38-5-7, or IC 33-39-6-2.

Section 2.2 Participating Employers. The following are participating Employers (“Employers”) for purposes of the Plan:

- (a) For an elected officer, appointed officer, or employee of the executive branch of state government, the State, including any board, commission, department, division, authority, institution, establishment, facility, or governmental unit under the supervision of the state, having a payroll in relation to persons it immediately employs.
- (b) For a member of the Indiana General Assembly or an employee of the legislative branch of state government:
 - (1) The President Pro Tempore of the Indiana Senate, for a member or an employee of the State Senate;
 - (2) The Speaker of the House, for a member or an employee of the State House of Representatives; or
 - (3) The personnel subcommittee of the legislative council, for an employee of the State Legislative Services Agency.
- (c) For:
 - (1) A justice;

- (2) A judge;
- (3) A prosecuting attorney;
- (4) An officer described under Section 2.1(e); or
- (5) An employee of the judicial branch of State government, including an employee of any board, commission, department, division, authority, institution, establishment, facility, or governmental unit under the supervision of the judicial branch, having a payroll in relation to persons it immediately employs;
- (6) the State Supreme Court.

Section 2.3 Commencement of Participation. Subject to the conditions and limitations of IC 5-10-8.5-1 *et seq.* and this Plan, each Eligible Employee will be eligible to participate in the Plan and will become a “Participant” in the Plan on the later of (a) the Effective Date or (b) the date he becomes an Eligible Employee as described in Section 2.1.

Section 2.4 Cessation of Participation. A Participant will cease participation as of the earliest of (a) the date on which the Plan terminates or (b) the date on which he ceases to be an Eligible Employee. Notwithstanding the preceding sentence, an Eligible Employee who is a Participant at his termination of employment and who (a) is eligible for and has applied to receive a normal, unreduced or disability retirement benefit (as determined by statutes and codes governing a State public employee retirement fund of which the Participant is a member) on the Participant’s last day of service, or (b) who has completed at least ten (10) years of service as an elected or appointed officer on the Participant’s last day of service as an elected or appointed officer (a “Retired Participant”), will continue as a Participant solely for the purpose of receiving benefits as described in Section 3.1 and, if applicable, the contribution described in Section 3.4, but not for purposes of receiving contributions as described in Section 3.3. Such Retired Participant’s participation will cease when the individual’s Reimbursement Account is depleted or the Retired Participant and his Covered Dependents (as defined in Section 3.8) have died or

are no longer classified as Covered Dependents, at which time the Retired Participant's Reimbursement Account will be forfeited to the Fund. For a person whose eligibility as a Retired Participant is based upon at least ten (10) years of service as an elected or appointed officer who has years of service with more than one Employer, the Participant's years of service are the sum of all of the Participant's years of service with all Employers. Years of service that are purchased by the Participant in order to be eligible to receive a normal, unreduced retirement benefit (as determined by the State public employees' retirement fund in which the Participant is a member) will not be included in determining the Participant's eligibility for benefits under this Plan.

Section 2.5 Participants Entitled to Benefits. Only a Retired Participant (as defined in Section 2.4 as modified by Section 2.6) and his Covered Dependents (as defined in Section 3.8) are entitled to receive benefits from the Plan. A Participant who is not a Retired Participant is not entitled to receive benefits from this Plan. When a Participant who is not a Retired Participant separates from service, the amounts credited to his Reimbursement Account will be forfeited to the Fund as of the date of his termination of employment. Notwithstanding this provision, a separation from service from one participating Employer described in Section 2.2 and immediate employment with another participating Employer is not considered a termination of employment for purposes of this Plan, and under such circumstances, the Participant remains a Participant in this Plan and is entitled to receive benefits from this Plan as though no separation from service occurred, as long as the Participant otherwise meets the definition of a Retired Participant on his last day of service with any participating Employer, as provided in Section 2.4.

Section 2.6 Death of Retirement Eligible Employee. Notwithstanding the provisions of this Article, a Participant who dies while in the employ of an Employer after the date on

which the Participant was eligible for a normal, unreduced retirement benefit (as determined by the statutes and codes governing a State public employee retirement fund of which the Participant is a Member) and who, on the date of his death, had not yet applied for such benefit, will be treated as a Retired Participant as of the date of his death if he would have otherwise qualified as a Retired Participant on the date of his death if he had applied for such normal, unreduced retirement benefit.

Section 2.7 Reinstatement of Former Participant. A former Participant who terminates his employment and is not immediately hired by another participating Employer as described in Section 2.5 will be treated as a new employee upon his rehire and will again become a Participant in accordance with Section 2.3. The balance of the individual's Reimbursement Account upon his rehire will be zero.

ARTICLE III

Plan Benefits

Section 3.1 Reimbursements. Subject to the conditions and limitations described in the Plan, a Retired Participant and, upon his death, his Covered Dependents, will be reimbursed from his Reimbursement Account for the Qualifying Expenses (as defined in Section 3.7) incurred by a Retired Participant or his Covered Dependents (as defined in Section 3.8) during the Plan Year, but only to the extent of the Retired Participant's balance in his Reimbursement Account (as determined under Sections 3.2). A claim for reimbursement must be submitted in accordance with Section 4.1 and reimbursements will be made in accordance with Article IV of the Plan. Although a Participant is eligible to receive contributions to his Reimbursement Account as long as he is eligible under Section 2.3 and has not ceased participation under Section 2.4, a Participant is not eligible to receive reimbursement from this Plan until he becomes a Retired Participant as described in Section 2.4, as modified by Section 2.6.

Section 3.2 Reimbursement Accounts. The Administrator will establish a "Reimbursement Account" for each Participant which will be maintained by the Claims Administrator under the direction of the Agency. On or before June 30 of each year beginning June 30, 2008, the Participant's Employer shall make contributions to the Reimbursement Account on behalf of the Participant, based on the contribution schedule defined in Section 3.3, and, on an additional one-time basis, if applicable under Section 3.4. In addition, effective as of June 30 of each subsequent year each Participant's Reimbursement Account will be credited or debited with earnings or losses on the investments or deposits of the Reimbursement Account reduced by its share of the administrative costs of the Reimbursement Account. The

maintenance of Reimbursement Accounts is only for accounting purposes, and no assets need be segregated to any Reimbursement Account.

Section 3.3 Contribution Schedule.

- (a) A Participant's Employer shall make contributions annually to the Reimbursement Account on behalf of the Participant. The amount of the contribution each Plan Year must equal the following, based on the Participant's attained age on the last day of the calendar year falling within the Plan Year for which the contribution is made:

Participant's Attained

<u>Age in Years</u>	<u>Annual Contribution Amount</u>
Less than 30	\$ 500
At least 30, but less than 40	\$ 800
At least 40, but less than 50	\$1,100
At least 50	\$1,400

- (b) The Agency shall determine the date on which the contributions are credited to the Participants' Reimbursement Accounts which date shall not be later than June 30 of each year.
- (c) Notwithstanding the foregoing, in order to receive a contribution to his Reimbursement Account in any given year, a Participant must be an employee as defined in Section 2.1 on the preceding December 31 and must be continuously employed by an Employer through the date on which the contribution is made.

Section 3.4 Reimbursement Account Additional Contributions.

- (a) If a Retired Participant meets all of the following conditions, the Retired Participant is entitled to receive an additional one-time contribution credited to the Retired Participant's Reimbursement Account and computed as described in subsection (b):
- (1) The Retired Participant is an Eligible Employee of an Employer on July 1, 2007.

- (2) The Retired Participant is:
 - (A) on the Retired Participant's last day of service with Retired Participant's Employer, eligible for and, except as provided in Section 2.6, has applied to receive a normal, unreduced retirement benefit from the State public employee retirement fund of which the Retired Participant is a member; or
 - (B) on the Retired Participant's last day of service, an elected or appointed officer.
- (3) After June 30, 2007, and before July 1, 2017, the Retired Participant terminates service:
 - (A) from the Employer; or
 - (B) as an elected or appointed officer.
- (4) By the Retired Participant's last day of service, the Retired Participant has completed:
 - (A) At least fifteen (15) years of service with the Employer; or
 - (B) At least ten (10) years of service as an elected or appointed officer.
- (b) The amount of the contribution to a Retired Participant's Reimbursement Account under this Section is the product of:
 - (1) The Retired Participant's years of service (rounded down to the nearest whole year):
 - (A) with the Retired Participant's Employer, determined on the Retired Participant's last day of service with the Retired Participant's Employer; or
 - (B) as an elected or appointed officer, determined on the Retired Participant's last day of service as an elected or appointed officer; multiplied by

- (2) One thousand dollars (\$1,000).
- (c) For a Retired Participant who has continuous service with more than one (1) Employer, the Retired Participant's years of service used in the computation under subsection (b)(1) is the sum of all of the Retired Participant's years of service with all Employers as determined by the Agency, the Department and PERF.
- (d) The Retired Participant's Employer must make the additional contribution described in this Section to the Retired Participant's Reimbursement Account no more than sixty (60) days after the Retired Participant's last day of service.
- (e) A Retired Participant who meets the requirements to receive an additional contribution under this Section may receive the additional contribution only once, regardless of the Retired Participant's employment after the payment of the additional contribution.

Section 3.5 Reimbursement Account Carry-Forward and Limitations. A Participant's Reimbursement Account will not be adjusted or reduced until the Participant becomes a Retired Participant, except as described in Sections 3.2, 3.3 and 3.4. Consequently, the full balance in the Reimbursement Account at the end of a Plan Year will be carried forward from Plan Year to Plan Year until forfeited as described in Section 2.4 or Section 2.5. When a Participant becomes a Retired Participant the full balance of his Reimbursement Account at the end of a Plan Year will be carried forward to the next Plan Year and used for the reimbursement of Qualifying Expenses with respect to a Retired Participant or Covered Dependent incurred in the following Plan Year (and subsequent Plan Years) as provided in this Article.

Section 3.6 Retired Participants. A Retired Participant will be treated as a Participant for all purposes of the Plan, except that a **Retired Participant's Reimbursement Account will not be increased after the Participant becomes a Retired Participant, except as provided in Sections 3.2 and 3.4.**

Section 3.7 Qualifying Expenses. A "Qualifying Expense" includes:

- (a) Premiums under a fully-insured policy providing group or individual coverage of the Retired Participant and/or his Covered Dependents for medical, dental, vision,

and tax-qualified long-term care (subject to the limitations in Code Section 213(d)(10)), including coverage provided under Medicare supplement policies and the State's Medicare complementary policy, and premiums for coverage of the Retired Participant and/or his Covered Dependents under Medicare Part B and Medicare Part D.

- (b) If the Agency requests and receives a private letter ruling from the Internal Revenue Service which rules that the Plan may reimburse the following expenses on a non-taxable basis to all Retired Participants and their Covered Dependents, the definition of Qualified Expenses for purposes of the Plan will be expanded to include any expense that qualifies as a medical expense under Code Section 213(d) incurred by a Retired Participant or his Covered Dependents.

However, any expenses (i) paid, reimbursed or reimbursable by any insurance, accident, health or workers' compensation plan; (ii) paid, reimbursed or reimbursable under a Code Section 125 plan; (iii) incurred while the individual is neither a Retired Participant nor a Covered Dependent; or (iv) the individual is not legally obligated to pay, will not be treated as Qualifying Expenses.

Section 3.8 Covered Dependent. The term "Covered Dependent" with respect to any Retired Participant means an individual to whom the Retired Participant is legally married (excluding a "common-law" spouse) or who qualifies as a dependent child of the Retired Participant under the State's health plans at the time the Qualifying Expense is incurred and the spouse and dependent children of deceased Retired Participants. To the extent Covered Dependents incur Qualifying Expenses after the death of a Retired Participant, those expenses will continue to be eligible for reimbursement until (i) the balance in the Retired Participant's Reimbursement Account is zero, or (ii) the individual ceases to qualify as a Covered Dependent by remarriage or no longer meeting the definition of dependent, or (iii) until the Plan is amended or terminated pursuant to Article VII.

Section 3.9 Changes by the Agency. If the Agency determines, before or during any Plan Year, that the Plan may fail to satisfy for that Plan Year any nondiscrimination requirement imposed by the Code or any limitation on benefits provided to "key employees" (as determined

under Code Section 416) or “highly compensated employees” (as determined under Code Section 105(e)), the Agency may take any action it deems appropriate, under rules uniformly applicable to similarly situated Participants or Retired Participants, to assure compliance with that requirement or limitation.

ARTICLE IV

Benefit Payments

Section 4.1 Payment Procedures. To receive reimbursement for a Qualifying Expense under Article III, the Retired Participant must file a written claim with the Claims Administrator, no later than 90 days after the end of the Plan Year in which the expense was incurred, that contains appropriate supporting documentation (such as bills, receipts, canceled checks, written statements and the like). An expense will be “incurred” when the premium is incurred and, to the extent Section 3.7(b) is applicable, an expense will be “incurred” when the service or supply giving rise to the expense is performed or provided and paid by the Retired Participant or his Covered Dependent. The Claims Administrator in consultation with the Agency or the Department will determine, in their sole discretion, whether or not the expenses to be reimbursed under the Plan are Qualifying Expenses and whether or not sufficient documentation has been submitted to support the payment of the claim. Claims will normally be paid as soon as practicable following their approval. Any claim paid will reduce the Retired Participant’s Reimbursement Account by the amount of the claim so paid.

Section 4.2 Claim Review. The Claims Administrator, in accordance with the provisions of Article V, will determine the timing and the amount of any payment to be made under the Plan. However, a Retired Participant may seek a review of any benefit determination made by the Claims Administrator upon written request. The Claims Administrator will afford the Retired Participant a full and fair review of such a request in accordance with the claims and review procedures applicable to the Plan established by the Agency, the Department or the Claims Administrator and any claims procedures applicable to the Plan under applicable law.

Section 4.3 Subrogation. If Qualifying Expenses are paid or payable under this Plan to or on behalf of a Retired Participant or Covered Dependent and if the Retired Participant or Covered Dependent (or the Retired Participant's or Covered Dependent's guardian or estate) has, may have, or asserts a lawful claim against any other party or parties (including insurance companies and carriers) for payment of all or part of those expenses, this Plan will be subrogated to all claims and rights of recovery of the Retired Participant or Covered Dependent and will be entitled to reimbursement from any judgment, settlement or payment resulting from the individual's claim or right. The Plan will be reimbursed in full for any Qualifying Expenses paid or payable by the Plan before any amounts (including any legal fees incurred by the Retired Participant, Covered Dependent, guardian or estate) are deducted from the judgment, settlement or payment are paid to any other person (including the Retired Participant or Covered Dependent). If a suit is filed, the Plan may record a notice of payment of benefits which will constitute a lien against any judgment recovered.

The Retired Participant or Covered Dependent (including his or her guardian or estate) must take any action the Plan may reasonably require to secure the Plan's rights under this Section and avoid any action that would prejudice the Plan's rights. If the Covered Dependent is a minor or under any other legal disability, the parent or guardian of the dependent may act on behalf of, and consequently bind, the dependent for purposes of this Section.

If the Retired Participant or Covered Dependent (including his or her guardian or estate) fails to promptly bring suit against the third party, the Plan may take any legal action it deems necessary or desirable against the third party in its own name or in the name of the Retired Participant or Covered Dependent to secure recovery. The Plan may retain the Qualifying Expenses paid or to be paid and its court costs (including attorney fees) from any judgment,

settlement or payment, with the balance, if any, to be paid to the Retired Participant or Covered Dependent or as the court may otherwise direct.

Section 4.4 Reimbursement. If the Plan pays any amount in excess of the amount it is required to pay, the Plan will be entitled to be reimbursed for the excess from the payee. If a Retired Participant or Covered Dependent has received a payment from a third party for any Qualifying Expense, the Plan may reduce its required payment by that amount.

ARTICLE V

Administration of Plan

Section 5.1 Administrative Powers. The Agency will have the full power to administer the Plan in all of its details, subject to applicable requirements of law, including but not limited to the provisions of IC 5-10-8.5-1 *et seq.* The Agency will have the power and duty to provide for the day-to-day administration of the Plan and may delegate its duties and powers to review claims to the Claims Administrator. The Agency's powers will include, but will not be limited to, the following, in addition to all other powers provided by this Plan:

- (a) To make and enforce rules and regulations as it deems necessary or proper for the efficient administration of the Plan;
- (b) To interpret the Plan, with its interpretation thereof made in good faith to be final and conclusive on all persons claiming benefits under the Plan;
- (c) To decide all questions concerning the Plan and the eligibility of any person to participate in the Plan;
- (d) To appoint agents, counsel, accountants, consultants, and other persons as may be required to assist in administering the Plan;
- (e) To request from the Internal Revenue Service any rulings or determination letters that the Administrator considers necessary or appropriate in order to implement or administer the Plan; and
- (f) To allocate and delegate its responsibilities under the Plan and to designate other persons to carry out any of its responsibilities under the Plan, including the Department or PERF.

Section 5.2 Examination of Records. The Claims Administrator will make the Plan records that pertain to a Participant available to that Participant for examination at reasonable times during normal business hours.

Section 5.3 Administrative Decisions. The Agency may adopt rules or procedures as it deems necessary or desirable to provide for the proper administration of the Plan. All rules and decisions of the Agency will be consistent with the terms of the Plan and will be uniformly

and consistently applied to all Participants in similar circumstances. When making a determination or calculation, the Agency may consult with the Department; and the Agency or Department may rely upon information furnished by the Participant, another employee or the Agency's legal counsel. The Agency, the Department or the Claims Administrator will make any adjustments it considers equitable and practicable to correct a mistake of fact once the mistake becomes known. Subject to applicable law, and the authority of the Agency, any determination made in good faith by the Agency, the Department or the Claims Administrator will be binding on all persons. Consequently, benefits under this Plan will be paid only if the Agency, the Department or the Claims Administrator decides in its discretion that the applicant is entitled to them.

ARTICLE VI

Funding

Section 6.1 Source of Funding. All costs of providing the benefits available under this Plan from the Fund will be funded by:

- (a) Contributions made by Employers pursuant to Article III;
- (b) All earnings on investments or deposits of the aggregate contributions to all Participants' and Retired Participants' individual Reimbursement Accounts; and
- (c) All contributions or payments made to all Participants' and Retired Participants' individual Reimbursement Accounts in a manner provided by the Indiana General Assembly.

Notwithstanding the foregoing, the earnings of the aggregate contributions to the individual Participants' and Retired Participants' Reimbursement Accounts shall be reduced by any investment losses in the Fund and the administrative costs of the Plan before any earnings are credited to the balance of Participants' Reimbursement Accounts.

ARTICLE VII

Amendment and Termination of Plan

Section 7.1 Amendment and Termination of Plan. Any part or all of the Plan may be amended by the Agency at any time in its sole discretion. While it is expected that the Plan will continue indefinitely, the General Assembly may terminate the Plan at any time pursuant to its statutory authority. Any subsequent changes or amendments to IC 5-10-8.5-1 *et seq.* supersede the terms of this Plan document and any rules or procedures adopted pursuant hereto.

ARTICLE VIII

Miscellaneous Provisions

Section 8.1 Information to be Furnished. Participants must provide the Department, the Agency or the Claims Administrator with any information and evidence, and sign any document, as may reasonably be requested from time to time, for the purpose of administering the Plan.

Section 8.2 Limitation of Rights. Neither the establishment of the Plan, nor any amendment of the Plan, nor the payment of any benefits under the Plan, may be construed as giving to any Participant, Retired Participant, Covered Dependent, or other person any legal or equitable right against the Agency, the Department, PERF or an Employer, except as specifically provided in the Plan.

Section 8.3 Governing Law. This Plan shall be construed, administered and enforced according to the laws of the State of Indiana.

Section 8.4 Nonguarantee of Employment. Nothing contained in this Plan may be construed as a contract of employment between an Employer and an employee, or as a right to be engaged or continued in the employment of an Employer, or as a limitation of the right of an Employer to discharge any of its employees, with or without cause.

Section 8.5 Nonalienation of Benefits. Except as may be required by law, benefits payable under this Plan are not subject in any manner to sale, transfer, assignment, pledge, encumbrance, garnishment, or levy of any kind, either voluntary or involuntary, prior to actually being received by the person entitled to the benefit under the terms of the Plan; and any attempt to sell, transfer, assign, pledge, encumber, or otherwise dispose of any right to benefits payable hereunder will be void. Neither the Agency, the Department, PERF, the State, nor an Employer

shall be liable for, or subject to, the debts, contracts, liabilities, engagements or torts of any person entitled to benefits hereunder.

Section 8.6 Illegal or Invalid Provisions. The State intends that the Plan be legally enforceable and in the event any provision of this Plan is held illegal or invalid for any reason, any illegality or invalidity will not affect the remaining parts of this Plan, and the Plan will be construed and enforced as if the illegal or invalid provision had never been inserted.

Section 8.7 Gender and Number. Words in the masculine gender are to be construed to include the feminine gender in all cases where appropriate and words in the singular or plural are to be construed as being in the plural or singular where appropriate.

Section 8.8 Waiver of Notice. Any notice required under the Plan may be waived by the party entitled to the notice.

Section 8.9 Action by State, Agency, Department or Employers. Any action required or permitted to be taken by the State, the Agency, the Department, PERF or an Employer under the Plan must be by a person or persons duly authorized by statute.